

Stern, Jeff

From: Nancy Glaser [Nancy.Glaser@Seattle.Gov]
Sent: Tuesday, March 04, 2003 5:23 PM
To: cohen.lori@epa.gov
Cc: Donald.Theiler@METROKC.GOV;
Subject: Re: Language for EPA

Lori --

In our LDWG/EPA/Ecology Managers Meeting of February 13th, you indicated that you would be willing to consider creative approaches to address our concerns related to boundary definition and cost containment issues as we negotiated an AOC for Slip 4. We appreciate your willingness to explore new approaches with us as we are all attempting to approach the Early Action Clean-ups in a meaningful and expeditious fashion.

In light of our discussions, John Llewellyn, Don Theiler and I would like to meet with you next Tuesday, March 11th in the morning to discuss two issues of critical importance to us: Boundary definition and cost containment for signators to the Slip 4 AOC. We feel strongly that we need to reach agreement on both "boundary" and "cost containment" language before we enter into any other discussions.

Our proposed language is below. We will bring the referenced map to the meeting. Would it be possible to meet at 8:30 or 9 am on Tuesday the 11th? Please let me know your availability and where you would like to meet. I am happy to reserve a room for us here at Key Tower if that meets your needs. If you'd like to call, my office number is 684-3117 and my cell phone is 354-3881.

We look forward to talking with you. Nancy

Slip 4 AOC page 8, lines 9-11:

Strike the following: "and the areal extent of contamination at or from Slip 4 which EPA may determine after the EE/CA described below is completed should be addressed as part of the Slip 4 Early Action Area."

Page 8, lines 21-22:

Replace the first sentence of paragraph b with the following:

"The Slip 4 Early Action Area consists of the area bounded by the Mean Higher High Water (MHHW) mark on three sides of Slip 4, and bounded across the mouth of the slip by the property lines for tax parcels 2924049110 and 0022000005. See the map which is Appendix XXX to this Order."

Page 12, paragraph 14:

Add the following after the first sentence:

"Given the relatively small size of the Slip 4 Early Action Area and the fact that the maximum area to be addressed is clearly defined by the boundaries of the slip, and based upon agency experience at similar sites, EPA and the Respondents concur that the cost of a "worst case" removal action is unlikely to exceed \$10 Million dollars. In the event that the EE/CA indicates that the estimated cost for any of the removal action alternatives would exceed \$10 Million dollars, EPA and the Respondents shall take steps to insure that the total cost incurred by Respondents pursuant to this AOC shall be no more than twenty percent over the estimated "worst case" cost. The steps taken by the parties could include such things as: reducing the area to be cleaned up pursuant to this AOC, while recognizing that EPA could use its authority to require additional work pursuant to a separate order; or distributing the costs among additional Responsible Parties; or waiving EPA oversight costs. The deadlines in the Project Schedule shall be suspended and Respondents shall not incur penalties during the time that EPA and the Respondents are determining how to address estimated excess costs."

03/05/2003

KCSlip4 54122

SEA420469

Slip 4 was proposed as an Early Action Area within the Lower Duwamish Waterway Superfund Site, because multiple sediment samples contained chemical concentrations exceeding the Washington Sediment Management Standards Cleanup Screening Level (CSL) values. One of these chemicals, PCBs, also exceeded the human health risk screening criteria for Early Actions. The exceedances were found near the head of the slip. The primary objective of this removal action is to significantly reduce the potential risk to human health and the environment resulting from the "hot spot" of contaminated sediments where chemicals exceed CSL values.